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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/863,485	05/23/2001	Craig L. Johnson	16635-104	9336

25204 7590 03/27/2003

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EXAMINER

KIM, SUN U

ART UNIT	PAPER NUMBER
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1723

DATE MAILED: 03/27/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/863,485

Applicant(s)
Johnson

Examiner
John Kim

Art Unit
1723



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jan 23, 2003
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-14 is/are pending in the application.
- 4a) Of the above, claim(s) 10-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) | 6) <input type="checkbox"/> Other: |

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1. Claims 10-14 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made without traverse in Paper No. 5.

2. Claim 6 is rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 5,695,489 (hereinafter referred to as Japuntich). Japuntich teaches a flexible blood bag (12) comprising a top port (14) and a bottom port (16) and an integral coarse filter comprising a tube of plastic mesh (62) extending from the top port into the bag (12) (see figures 1-2, 7; col. 3, line 46 - col. 7, line 25). Recitation of "bag or reservoir for recirculation washing of blood cells" and "a less dense suspension of blood cells is withdrawn through said top outlet port for further processing" are intended use of the apparatus; therefore, such recitation is not given a patentable weight to the structural limitation since the flexible blood bag of Japuntich meets all of the structural elements claimed.

3. Claims 7 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,443,220 (hereinafter referred to as Hauer et al). Hauer et al teach a pliable blood bag (14) comprising a top port (28) and a bottom port (26) and a tube (32) extending into the bag from the top port (28) to remove air (see figure 2; col. 2, line 25 - col. 4, line 15). Recitation of "bag or reservoir for recirculation washing of blood cells" is an intended use of the apparatus; therefore, such recitation is not given a patentable weight to the structural limitation since the flexible blood bag of Hauer et al meets all of the structural elements claimed.

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4. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japuntich in view of Hauer et al. Japuntich teaches a flexible blood bag including an integral coarse filter comprising a tube of plastic mesh as described in above paragraph 2. Claims 8-9 essentially differ from the blood bag of Japuntich in reciting a bubble trap at the top comprising plastic tubing extending from the top port into the bag inside the mesh tube. Hauer et al teach a pliable blood bag (14) comprising a top port (28) and a tube (32) extending from the top port (28) into the bag inside a screen filter (38) to remove air (see figure 2; col. 2, line 25 - col. 4, line 15). It would have been obvious to a person of ordinary skill in the art to modify the blood bag of Japuntich to incorporate a tube extending from the top port into the bag of Japuntich inside a mesh filter to remove air as suggested by Hauer et al. Please note that recitation of "bag or reservoir for recirculation washing of blood cells" and "a less dense suspension of blood cells is withdrawn through said top outlet port for further processing" are intended use of the apparatus; therefore, such recitation is not given a patentable weight to the structural limitation.

5. Applicant's arguments with respect to claims 7-9 have been considered but are moot in view of the new ground(s) of rejection.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. This application contains claims 10-14 drawn to an invention nonelected with traverse in Paper No. 5. A complete reply to the final rejection must include cancelation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Kim whose telephone number is (703) 308-2350. The examiner can normally be reached on weekdays from 7:00 AM - 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker, can be reached on (703) 308-0457. The fax phone number for official response after final action is (703) 872-9311, and the fax phone number for all other official faxes is (703) 872-9310.

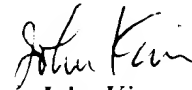
When sending a draft amendment by fax, please mark the paper as "DRAFT"; otherwise, mark the paper "OFFICIAL". This will expedite the processing of the paper.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0651.

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John Kim

**Primary Examiner
Art Unit 1723**

J. Kim
March 25, 2003